Service Date: December 14, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF LINCOLN TELEPHONE COMPANY, INC.'s Application for the Establishment of Extended Area Service (EAS) between the Lincoln Telephone Company Exchanges and the Exchanges in the Helena EAS Region of Qwest Communications.	UTILITY DIVISION DOCKET NO. D2003.6.84 ORDER NO. 6526a

FINAL ORDER

Introduction

1. Extended Area Service (EAS) expands the area in which telephone calls will be treated as local calls for rate purposes rather than as long distance calls. The criteria for the establishment of an EAS region and the guidelines for the establishment of an EAS increment are contained in the Administrative Rules of Montana (ARM) 38.5.13. The procedure involves a Phase I Community of Interest determination and, if there is found to be a community of interest, a Phase II for Cost Analysis and Rate Design.

2. If EAS is implemented there is an additional local rate increment (EAS increment) charged to customers to compensate the company/companies involved for the implementation costs, increased calling volumes, and the loss of long distance and other revenues. EAS can be controversial because for low volume long distance customers, the EAS increment can exceed the reduction in their long distance bills. Conversely, for customers with high long distance volumes to the proposed EAS exchanges, their long distance savings can exceed the EAS increment.

Findings of Fact

3. On June 24, 2003 Lincoln Telephone Company, Inc. (LTC) filed an application with the Commission for and on behalf of its local exchange customers for expansion of the Qwest Helena EAS Region to include LTC's Lincoln and Canyon Creek exchanges. The Qwest Helena EAS Region currently includes the Helena exchange (Helena Main, Helena North, East Helena, Canyon Ferry and Clancy), Townsend, Boulder, and Wolf Creek. In Docket No.

D2003.1.8, Final Order No. 6502c, the Qwest Helena EAS Region was expanded to include the Blackfoot Telephone Cooperative exchange of Avon.

Phase I Community of Interest Determination

4. On August 8, 2003 the Commission initiated the Phase I Community of Interest Determination per ARM 38.5.1313. In Phase I, LTC and Qwest were required to (within 45 days) conduct call usage studies for the most recent three months to determine relevant calling patterns between the exchanges involved.

5. The rules state (ARM 38.5.1313(2)) that a community of interest will be deemed to exist if for two of the three months: a) the petitioning exchange averages a least eight calls per main billed account to the petitioned exchange; and b) more than 50 percent of the customers (based on main billed accounts) in the petitioning exchange make two or more calls per month to the petitioned exchange. If the call usage data does not indicate a community of interest, the Commission does have the authority to make such a determination based on factors such as local calling for law enforcement, fire protection, medical, schools, churches, city and county governments, shopping and service centers, agricultural and service organizations, and employment centers (ARM 38.5.1313(5)).

6. On September 17, 2003 Qwest filed its call usage data. The filing showed there was no instance where the call usage data from the Qwest Helena EAS Region to either of the LTC exchanges met either of the call criteria in ARM 38.5.1313. However, this information was for the petitioned exchanges calling to the petitioning exchanges. ARM 38.5.1313 is very clear the relevant call usage data would be the LTC call usage data for the petitioning exchanges calling the petitioned exchanges. This was so noted in the correspondence included by Qwest in their September 17, 2003 filing.

7. LTC filed its initial call usage data on September 22, 2003 and supplemental data on September 25, 2003. The call usage data showed the Canyon Creek exchange met the community of interest standards from ARM 38.5.1313(2). The Lincoln exchange had elevated call usage to the Qwest Helena EAS Region having met one of the two call usage criteria while narrowly missing the other. LTC argued if cellular and calling card usage could be quantified the call usage criteria would be met. In addition, LTC also argued that both Lincoln and Canyon Creek are in Lewis and Clark County and the County seat is in Helena. County services, in particular social services, as well as medical services, law enforcement, and senior citizen and low

income services are socioeconomic factors linking Lincoln to Helena and should be taken into consideration per ARM 38.5.1313(5)).

8. On October 28, 2003 the Commission issued a Notice of Commission Action (NCA) determining that a community of interest had been demonstrated. The NCA further initiated the Phase II cost analysis and rate design proceeding (see ARM 38.5.1315). Per the rules, Phase II filings must be filed within 90 days.

Phase II Cost Analysis and Rate Design

9. In the Phase II filing the companies are first required to do a financial impact analysis of the EAS implementation in the form of a revenue requirement. Per ARM 38.5.1315(2), the analysis "shall include a determination of all cost and revenue impacts." The companies then propose a revenue neutral rate design to recover the revenue requirement per ARM 38.5.1313(3). The EAS rate design must include a flat rate option and at least one lower cost usage sensitive option.

10. Qwest filed its Phase II Revenue Requirement and Rate Design on February 20, 2004. Currently Qwest has a monthly $2.44 "statewide" EAS increment. This increment will soon be $2.80 due to recent Commission orders in other EAS dockets[1]. (The term "statewide" is somewhat of a misnomer as the increment is paid only by Qwest customers residing in EAS areas. Some Qwest customers in Montana that do not reside in an EAS region are not paying the increment.)

11. Qwest proposed two alternatives for recovery of the revenue requirement associated with implementing EAS with LTC's Lincoln and Canyon Creek exchanges. Qwest's first proposed rate design would recover the revenue requirement from just the Helena Region EAS customers. This would increase the monthly EAS increment paid by Helena EAS Region customers by $.13 to $2.93 while the other Qwest EAS region customers (Billings, Bozeman, Butte, Great Falls, and Missoula regions) would continue to pay the $2.80.

12. The second rate design proposal from Qwest would recover the revenue requirement from all Montana EAS customers by increasing the monthly statewide increment by $.01 to $2.81.

13. Qwest stated its preference for the second alternative to increase the statewide EAS increment by $.01 (PSC DR-024). Qwest stated that it was easier for their customers to

understand, especially business customers who subscribe to service in various locations throughout the state. In addition, Qwest stated the single statewide increment is easier for their Sales Channel to discuss with customers and it is easier to bill.

14. LTC filed its Phase II Cost Analysis and Rate Design on January 26, 2004. LTC proposed two alternative rate designs for its customers. They are as follows:

Flat Rate – Unlimited calling to Helena EAS Region: $6.55 per month and no per minute charge.

Alternative Rate – Calling to Helena EAS Region: $4.05 per month plus $.05 per minute charge. (The per minute charge would be assessed on calls from the Canyon Creek and Lincoln exchanges to the other exchanges within the EAS Region. Calls between customers residing in the Lincoln exchange and calls between customers residing in the Canyon Creek exchange would not be assessed any per minute charge.)

15. LTC states these rates are designed to be revenue neutral to LTC and recover the costs of EAS implementation from those customers in the Lincoln and Canyon Creek exchanges who directly benefit from the expanded Helena EAS Region. Current monthly residence and business unlimited flat rates for LTC customers are $11.90 and $16.20 respectively. The proposed EAS increment would increase the residence rate to $18.45 for the flat rate option, or $15.95 plus $.05 per minute for outgoing calls if the usage sensitive option is chosen. The business rate would increase to either $22.75 for the flat rate option, or $20.25 plus $.05 per minute for outgoing calls if the usage sensitive option is chosen. For comparison, current Qwest flat rate unlimited usage rates for residence and business, including the $2.80 EAS increment, are $19.53 and $36.74 respectively.

Public Hearings

16. Per ARM 38.5.1315(5), the Commission, following the receipt of the companies' analyses, held two public hearings in Lincoln. The first hearing was held on August 19, 2004. Representatives from Qwest Communications, Lincoln Telephone, and the Montana Consumer Counsel (MCC) were at the hearing. The MCC representative spoke at the hearing and stated the MCC position on this EAS proposal was neutral. Public attendance at this hearing was light. The public testimony for EAS for the Canyon Creek Exchange was strongly in support. The

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1 D2002.10.132–Final Order (FO) 6524b, D2003.1.8–FO 6502c, D2004.217-FO 6549b, D2004.2.22-FO 6548b

testimony for EAS for the Lincoln Exchange was generally in support but not as strong as for Canyon Creek. However, after this first hearing there were concerns raised about adequate public notice.

17. Accordingly, the Commission scheduled a second public hearing on September 1, 2004. Attendance at this hearing was significantly higher than the first hearing and the public testimony was predominantly opposed to EAS for the Lincoln exchange.

Balloting

18. Per ARM 38.5.1315(6), the Commission on September 21, 2004 directed LTC to survey their customers by ballot to ascertain customer acceptance of the EAS proposal. The Commission directed LTC to use separate ballots for the Lincoln Exchange versus the Canyon Creek Exchange. The ballots and the informational materials accompanying the ballots were approved by Commission staff prior to being mailed to Lincoln Telephone customers. LTC mailed a letter to each of its members/customers explaining the EAS proposal, including a price comparison of LTC's proposed EAS rates for residential and business unlimited and measured service options to similar EAS services offered by Qwest and other telephone companies in Montana. LTC enclosed with its mailing a postage-paid postcard (customer survey/ballot) requesting that members indicate whether or not they supported the EAS proposal. These ballots were different colors for the Lincoln Exchange versus the Canyon Creek Exchange. The ballots were to be returned to the Commission by November 17, 2004. The customer survey for the Lincoln Exchange had a response rate of 74%, with 56% of the respondents supporting the EAS proposal. The customer survey for the Canyon Creek Exchange had a response rate of 60%, with 78% of the respondents supporting the EAS proposal.

Commission Analysis and Discussion

19. Although factual and legal requirements must be met before EAS can be ordered, to a large extent EAS is a matter of policy. Resolution of EAS issues is dependent on a correct assessment of what is fair and equitable to all consumers and in the best public interest. When the community of interest criterion is met between exchanges or among exchanges in a region there is a strong indication that EAS may be appropriate. The PSC has compared and judged EAS applications from the standpoint that the public interest is related to community of interest.[2]

2. Docket No. D95.10.146, Order No. 5889b

20. Both Qwest and LTC are public utilities subject to regulation by the PSC.

21. The PSC has fully considered the application of LTC, the call usage studies, the cost analyses and rate design proposals, all evidence and comments filed or presented at hearing, including comments from the public, and the results of the customer survey. The PSC determines that the application, studies, and proposals comply with all applicable laws.[3] The PSC determines that the existing Helena EAS region should be expanded to include the LTC exchanges of Lincoln and Canyon Creek.

22. Qwest requested, if the EAS expansion is approved, that the implementation date be 180 days from the date of the order (PSC DR-025). LTC requested, if this EAS expansion is approved, that the implementation date be 120 days from the date of the order (PSC DR 015). The Commission determines that LTC and Qwest should implement the EAS arrangements within 150 days of the service date of this order.

23. The Commission recognizes that EAS for the Lincoln exchange has been controversial. While the majority of customers (56%) in Lincoln do favor the EAS expansion, there remains a significant percentage (44%) that is opposed. The public testimony at the second hearing reflected vocal, adamant opposition. At hearing, opponents to the EAS proposal expressed several reasons for their opposition that include:

a.) Their community of interest is either Great Falls or Missoula, not Helena.

b.) They make few, if any, long distance calls to Helena.

c.) They utilize calling cards to call Helena with rates as low as \$.03 per minute.

d.) They are summer residents of Lincoln and only live there 6 months or so out of the year.

e.) They are not willing to "subsidize" customers who do call the Helena EAS Region frequently.

24. The Commission finds the flat rate unlimited usage option of \$6.55 per month should be approved (¶ 14). However, because of the concerns expressed above (¶ 23), the Commission finds the \$4.05 per month flat rate component of the alternative rate (\$4.05 per month plus \$0.5 per minute) should be lowered (¶ 14). The Commission finds an alternative measured rate option of \$2.05 per month plus \$.09 per minute for calling within the EAS Region

would be in the best interest of LTC customers. The new lower monthly rate option represents a more equitable alternative for opponents. The $.09 per minute rate represents a benefit to customers of Linctel Communications, the long distance subsidiary of LTC, which currently charges $.12 per minute for calls from its customers to the Helena EAS Region. The Commission finds virtually all customers of the Lincoln and Canyon Creek exchanges will derive some measure of individual and public benefit from the expanded calling area (see Finding of Fact 7).

25. For Qwest, the Commission finds increasing the existing statewide EAS increment by $.01 should be approved (¶ 13).

Conclusions of Law

26. LTC is a public utility within the meaning of that term at § 69-3-101, MCA. The Commission has jurisdiction over public utilities as provided in Title 69, MCA, including at §§ 69-1-102, 69-3-102, and 69-3-807, MCA.

27. LTC's application was properly filed, noticed, processed, and considered, all in accordance with procedural and substantive laws governing the subject matter and actions of the Commission.

28. All pending motions, objections, and arguments not specifically addressed above are overruled to the extent that overruling is consistent with this Final Order.

ORDER

IT IS HEREBY ORDERED that the Helena EAS region shall be expanded to include the LTC exchanges of Lincoln and Canyon Creek. The rates of LTC shall be amended to reflect the rate designs referenced above (at ¶ 14, 24). The rates of Qwest shall be amended to reflect the rate designs referenced above (at ¶ 13 & 25). The expansion of the Helena EAS region is approved, and shall be implemented subject to the following conditions;

a.) Compliance tariffs reflecting the rates approved in this order must be filed by both LTC and Qwest prior to the implementation date (150 days from the date of this order).

b.) LTC shall notify their customers by first class mail that EAS has been approved within 30 days of the date of this order. This notice shall include information regarding the implementation date and the rate options which shall be available to

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3 ARM 38.5.1305 through 38.5.1315

customers at that time. An additional notice shall be sent to customers at least 30 days prior to the implementation date reminding customers they must choose one of the two rate options available prior to the EAS date.

c.) Qwest shall notify their customers in the Helena EAS Region of the pending change in the EAS Region at least 30 days prior to implementation.

Done and dated this 7th day of December, 2004, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice-Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.